

REMARKS

Applicants submit this Amendment After Final in reply to the final Office Action dated September 23, 2004.

By this Amendment After Final, Applicants propose to amend claims 1, 4, 15, 19, and 25 to further define the claimed invention. The originally-filed specification, claims, abstract, and drawings fully support the subject matter of the amended claims.

Applicants also propose to cancel claims 6-10, 21-23, and 26-28, without prejudice or disclaimer. Applicants reserve the right to present the subject matter of those canceled claims at a later time, for example, in an application claiming priority to the present application.

Before entry of this Amendment After Final, claims 1-28 were pending in this application. After entry of this Amendment After Final, claims 1-5, 11-20, 24, and 25 are pending in this application. Claims 1, 15, and 25 are the sole independent claims.

On pages 2-3 of the final Office Action, each of claims 1-28 were rejected under either 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,990,379 to Gregory ("Gregory") in view of U.S. Patent No. 5,984,956 to Tweden et al. ("Tweden"). Applicants respectfully traverse this rejection.

Neither Gregory nor Tweden disclose or suggest the invention claimed in each of independent claims 1, 15, and 25. For example, independent claim 1 recites a vascular implant comprising, among other aspects, a scaffold and a tubing in covering relation "wherein said tubing includes a portion in extension away from and/or remote from said scaffold." Independent claim 15 relates to a method of making a vascular implant and also recites, among other things, the above-quoted aspect. Independent claim 25

relates to a method for performing a coronary vessel bypass procedure and includes a recitation similar to that quoted above. Neither Gregory nor Tweden discloses at least the above-quoted aspect of each of the respective claimed inventions.

As acknowledged by the Examiner on page 2 of the final Office Action, "Fig. 9 of Gregory discloses the unfolded end as a portion in extension away from the scaffold **before it completely covers the stent.**" (Emphasis added). Indeed, when the rods 12 are removed from the lumens of the heterograft covered stents 20, Gregory discloses that the Bronco stent 20 is in the configuration shown in Fig. 10, i.e., the stents 14 are covered with the heterografts 10 with the ends of the heterografts 10 folded back over the edges of the stent 14 such that they overlap. (Figs. 8-10; col. 14, lines 34-47). The embodiment of Fig. 10 in Gregory is thus the configuration intended for implantation whereas Fig. 9 illustrates an intermediate configuration not intended for implantation. Accordingly, Gregory does not disclose or suggest an implant configuration of the Bronco stent 20 wherein any portion of the heterograft is in extension away from and/or remote from the stent 14.

Tweden also fails to disclose or otherwise suggest the above-noted deficiencies of Gregory. Indeed, the Examiner does not assert otherwise in the Office Action. For at least this reason, therefore, the Section 103 rejection based on Gregory and Tweden should be withdrawn.

Claims 2-5, 11-14, 16-20, and 24 depend from one of independent claims 1 and 15, and are therefore allowable for at least the same reasons that each of those respective independent claims is allowable. In addition, at least some of those

dependent claims recite unique combinations that are neither taught nor suggested by the prior art, and therefore at least some also are separately patentable.

Applicants respectfully request that this Amendment After Final under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-5, 11-20, 24, and 25 in condition for allowance. Applicants submit that the proposed claim amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. For example, the recitations added to claims 1, 15, and 25 are similar to recitations set forth and examined in claims 4 and 19 prior to this amendment. Therefore, this Amendment After Final should allow for immediate action by the Examiner.

The final Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.


In discussing the specification, claims, and drawings in this Amendment After Final, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment After Final
and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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